

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ARTURO RIVERA,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 2:24-cv-01072-RFB-BNW

**ORDER**

In this habeas corpus action, the Court appointed counsel for the petitioner, Arturo Rivera. ECF No. 4. The Federal Public Defender for the District of Nevada appeared on Rivera's behalf on August 7, 2024. ECF No. 8. Respondents appeared on August 12, 2024. ECF No. 9. On October 7, 2024, Rivera filed a first amended habeas petition. ECF No. 10. On October 15, 2024, Rivera filed a motion for leave to file a second amended habeas petition. ECF No. 12. Respondents filed an opposition to that motion on October 24, 2024. ECF No. 13. The Court will grant Rivera's motion to file a second amended petition (and will waive application of Local Rule LR 15-1(a)) and will set a schedule for further proceedings.

**IT IS THEREFORE ORDERED** that Petitioner's Motion for Leave to File Second Amended Petition (ECF No. 12) is **GRANTED**.

**IT IS FURTHER ORDERED** that the following schedule will govern further proceedings in this action:

Petitioner must either pay the \$5 filing fee for this action or file an application to proceed in forma pauperis within 45 days after entry of this Order.

Petitioner will have 90 days after the entry of this Order to file a second amended petition for writ of habeas corpus. The second amended petition must specifically state whether each

1 ground for relief has been exhausted in state court; for each claim that has been exhausted in state  
2 court, the second amended petition must state how, when, and where that occurred.

3 Respondents will have 60 days following the filing of the second amended petition to file  
4 an answer or other response to the second amended petition.

5 Petitioner will have 45 days following the filing of an answer to file a reply. Respondents  
6 will thereafter have 30 days following the filing of a reply to file a response to the reply.

7 If Respondents file a motion to dismiss, Petitioner will have 60 days following the filing  
8 of the motion to file a response to the motion. Respondents will thereafter have 30 days following  
9 the filing of the response to file a reply.

10 If Petitioner wishes to move for leave to conduct discovery, Petitioner must file such  
11 motion concurrently with, but separate from, the response to Respondents' motion to dismiss or  
12 the reply to Respondents' answer. Any motion for leave to conduct discovery filed by Petitioner  
13 before that time may be considered premature, and may be denied, without prejudice, on that basis.  
14 Respondents must file a response to any such motion concurrently with, but separate from, their  
15 reply in support of their motion to dismiss or their response to Petitioner's reply. Thereafter,  
16 Petitioner will have 20 days to file a reply in support of the motion for leave to conduct discovery.

17 If Petitioner wishes to request an evidentiary hearing, Petitioner must file a motion for an  
18 evidentiary hearing concurrently with, but separate from, the response to Respondents' motion to  
19 dismiss or the reply to Respondents' answer. Any motion for an evidentiary hearing filed by  
20 Petitioner before that time may be considered premature, and may be denied, without prejudice,  
21 on that basis. The motion for an evidentiary hearing must specifically address why an evidentiary  
22 hearing is required and must meet the requirements of 28 U.S.C. § 2254(e). The motion must state  
23 whether an evidentiary hearing was held in state court, and, if so, state where the transcript is  
24 located in the record. If Petitioner files a motion for an evidentiary hearing, Respondents must file  
25 a response to that motion concurrently with, but separate from, their reply in support of their  
26 motion to dismiss or their response to Petitioner's reply. Thereafter, Petitioner will have 20 days  
27 to file a reply in support of the motion for an evidentiary hearing.  
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1           **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to update the docket  
2 to substitute William Gittere for the State of Nevada as the named respondent.

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4           **DATED:** October 24, 2024

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**RICHARD F. BOULWARE, II,  
UNITED STATES DISTRICT JUDGE**